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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,740	06/25/2001	Martin Alter	M-11038 US	1379

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EXAMINER

LE, THONG QUOC

ART UNIT

PAPER NUMBER

2818

DATE MAILED: 05/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/891,740

Applicant(s)

ALTER, MARTIN

Examiner

Thong Q. Le

Art Unit

2818

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,3,5,12,20-27,30 and 33-81 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,3,5,12,20-27,30,33-45 and 47-81 is/are allowed.
- 6) ☒ Claim(s) 48 is/are rejected.
- 7) ☒ Claim(s) 49-62 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other:

**DETAILED ACTION**

1. Amendment filed on March 28, 2003 has been entered.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1-45 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 48 is rejected under 35 U.S.C. 102(b) as being anticipated by Muller et al. (U.S. Patent No. 5,285,131).

Regarding claim 38, Muller et al. disclose a device (Figure 2) comprising one or more programmable elements being selectively programmable to create a reflective filament pattern (Column 3, lines 38-45) for creating a selected optical pattern (Column 1, lines 65-68, column 1, lines 1-10).

***Allowable Subject Matter***

5. Claims 49-62 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 49-62 include allowable subject matter since the prior art made of record and considered pertinent to the applicant's disclosure does not teach or suggest the claimed limitations. Muller et al. (U.S. Patent No. 5,285,131), and others, does not teach the claimed invention having a second contact, wherein applying a programming current or a programming voltage across the first contact and the second contact of a selected one of the one or more programmable elements programs the selected one of the one or more programmable elements.

6. Claims 2-3, 5, 12, 20-27, 30, 33-45, 47-81 are allowed.

Claims 2-3, 5, 12, 20-27, 30, 33-45, 47-81 include allowable subject matter since the prior art made of record and considered pertinent to the applicant's disclosure does not teach or suggest the claimed limitations. Muller et al. (U.S. Patent No. 5,285,131), and others, does not teach the claimed invention having an address decoder on the substrate for selectively addressing the programmable elements for programming as described in Figure 4, 36.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q. Le whose telephone number is 703-306-9123. The examiner can normally be reached on 8:00am-5:00pm M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David C. Nelms can be reached on 703-308-4910. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-3329.



Thong Q. Le  
Examiner  
Art Unit 2818

May 8, 2003